

1 carelessness or negligence on its part, or on the part of any of Defendants' agents, servants or
2 employees.

3 **ANSWER**

4 1. Defendants admit, on information and belief, the allegations contained within
5 Paragraph 1 of the Complaint.

6 2. Defendants admit, on information and belief, the allegations contained within
7 Paragraph 2 of the Complaint.

8 3. Defendants admit on information and belief the allegations contained within
9 Paragraph 3 of the Complaint that "Anne Marie Quinn ('Ann Marie') and Steven Quinn
10 ('Steven'), through Plaintiffs' attorneys, bring this action to challenge the acts or omissions" of
11 Asset and Mr. Fine, but deny in their entirety the allegations that there were "attempts by
12 Defendants to unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this
13 conduct caused Plaintiff damages."

14 4. Defendants are without sufficient knowledge or information to form a belief as to
15 the truth of the allegations contained in Paragraph 4 of the Complaint, and therefore, on that
16 basis, deny each and every allegation contained therein.

17 **JURISDICTION AND VENUE**

18 5. Defendants admit, on information and belief, the allegations contained within
19 Paragraph 5 of the Complaint.

20 6. Defendants deny the allegations contained within Paragraph 6 of the Complaint
21 that allege that "This action arises out of Defendant ASSET's violations of the Fair Debt
22 Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA"), the Rosenthal Fair Debt
23 Collection Practices Act, California Civil Code §§ 1788-1788.32 ("RFDCPA"), and certain state
24 torts."

25 7. Defendants admit the allegations contained within Paragraph 7 of the Complaint.

26
27 8. Defendants admit, on information and belief, the allegations contained within
28 Paragraph 8 of the Complaint.

PARTIES

9. Defendants admit, on information and belief, the allegations contained within Paragraph 9 of the Complaint.

10. Defendants admit, on information and belief, the allegations contained within Paragraph 10 of the Complaint.

11. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

12. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

13. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

14. Defendants admit the allegations contained within Paragraph 14 of the Complaint.

15. Defendants admit, on information and belief, the allegations contained within Paragraph 15 of the Complaint.

16. Defendants admit the allegations contained within Paragraph 16 of the Complaint.

17. Defendants admit, on information and belief, the allegations contained within Paragraph 17 of the Complaint.

18. Defendants admit the allegations contained within Paragraph 18 of the Complaint.

19. Defendants admit the allegations contained within Paragraph 19 of the Complaint.

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FACTUAL ALLEGATIONS

20. Defendants admit, on information and belief, the allegations contained within Paragraph 20 of the Complaint.

21. Defendants admit the allegations contained within Paragraph 21 of the Complaint.

22. Defendants admit, on information and belief, the allegations contained within Paragraph 22 of the Complaint.

23. Defendants admit, on information and belief, the allegations contained within Paragraph 23 of the Complaint.

24. Defendants admit, on information and belief, the allegations contained within Paragraph 24 of the Complaint.

25. Defendants admit, on information and belief, the allegations contained within Paragraph 25 of the Complaint.

26. Defendants admit the allegations contained within Paragraph 26 of the Complaint.

27. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

28. Defendants deny the allegations contained in Paragraph 28 of the Complaint.

29. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 29 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

30. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 30 of the Complaint, and therefore, on that basis, deny each and every allegation contained therein.

31. Defendants deny the allegations contained in Paragraph 31 of the Complaint.

32. Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 32 of the Complaint, and therefore, on that

1 basis, deny each and every allegation contained therein.

2 33. Defendants are without sufficient knowledge or information to form a belief as to
3 the truth of the allegations contained in Paragraph 33 of the Complaint, and therefore, on that
4 basis, deny each and every allegation contained therein.

5 34. Defendants are without sufficient knowledge or information to form a belief as to
6 the truth of the allegations contained in Paragraph 34 of the Complaint, and therefore, on that
7 basis, deny each and every allegation contained therein.

8 35. Defendants are without sufficient knowledge or information to form a belief as to
9 the truth of the allegations contained in Paragraph 35 of the Complaint, and therefore, on that
10 basis, deny each and every allegation contained therein.

11 36. Defendants are without sufficient knowledge or information to form a belief as to
12 the truth of the allegations contained in Paragraph 36 of the Complaint, and therefore, on that
13 basis, deny each and every allegation contained therein.

14 37. Defendants are without sufficient knowledge or information to form a belief as to
15 the truth of the allegations contained in Paragraph 37 of the Complaint, and therefore, on that
16 basis, deny each and every allegation contained therein.

17 38. Defendants are without sufficient knowledge or information to form a belief as to
18 the truth of the allegations contained in Paragraph 38 of the Complaint, and therefore, on that
19 basis, deny each and every allegation contained therein.

20 39. Defendants are without sufficient knowledge or information to form a belief as to
21 the truth of the allegations contained in Paragraph 39 of the Complaint, and therefore, on that
22 basis, deny each and every allegation contained therein.

23 40. Defendants are without sufficient knowledge or information to form a belief as to
24 the truth of the allegations contained in Paragraph 40 of the Complaint, and therefore, on that
25 basis, deny each and every allegation contained therein.

26 41. Defendants are without sufficient knowledge or information to form a belief as to
27 the truth of the allegations contained in Paragraph 41 of the Complaint, and therefore, on that
28 basis, deny each and every allegation contained therein.

1 42. Defendants are without sufficient knowledge or information to form a belief as to
2 the truth of the allegations contained in Paragraph 42 of the Complaint, and therefore, on that
3 basis, deny each and every allegation contained therein.

4 43. Defendants are without sufficient knowledge or information to form a belief as to
5 the truth of the allegations contained in Paragraph 43 of the Complaint, and therefore, on that
6 basis, deny each and every allegation contained therein.

7 44. Defendants are without sufficient knowledge or information to form a belief as to
8 the truth of the allegations contained in Paragraph 44 of the Complaint, and therefore, on that
9 basis, deny each and every allegation contained therein.

10 45. Defendants are without sufficient knowledge or information to form a belief as to
11 the truth of the allegations contained in Paragraph 45 of the Complaint, and therefore, on that
12 basis, deny each and every allegation contained therein.

13 46. Defendants are without sufficient knowledge or information to form a belief as to
14 the truth of the allegations contained in Paragraph 46 of the Complaint, and therefore, on that
15 basis, deny each and every allegation contained therein.

16 47. Defendants are without sufficient knowledge or information to form a belief as to
17 the truth of the allegations contained in Paragraph 47 of the Complaint, and therefore, on that
18 basis, deny each and every allegation contained therein.

19 48. Defendants are without sufficient knowledge or information to form a belief as to
20 the truth of the allegations contained in Paragraph 48 of the Complaint, and therefore, on that
21 basis, deny each and every allegation contained therein.

22 49. Defendants are without sufficient knowledge or information to form a belief as to
23 the truth of the allegations contained in Paragraph 49 of the Complaint, and therefore, on that
24 basis, deny each and every allegation contained therein.

25 50. Defendants are without sufficient knowledge or information to form a belief as to
26 the truth of the allegations contained in Paragraph 50 of the Complaint, and therefore, on that
27 basis, deny each and every allegation contained therein.

28 51. Defendants are without sufficient knowledge or information to form a belief as to

1 the truth of the allegations contained in Paragraph 51 of the Complaint, and therefore, on that
2 basis, deny each and every allegation contained therein.

3 52. Defendants are without sufficient knowledge or information to form a belief as to
4 the truth of the allegations contained in Paragraph 52 of the Complaint, and therefore, on that
5 basis, deny each and every allegation contained therein.

6 53. Defendants are without sufficient knowledge or information to form a belief as to
7 the truth of the allegations contained in Paragraph 53 of the Complaint, and therefore, on that
8 basis, deny each and every allegation contained therein.

9 54. Defendants are without sufficient knowledge or information to form a belief as to
10 the truth of the allegations contained in Paragraph 54 of the Complaint, and therefore, on that
11 basis, deny each and every allegation contained therein.

12 55. Defendants are without sufficient knowledge or information to form a belief as to
13 the truth of the allegations contained in Paragraph 55 of the Complaint, and therefore, on that
14 basis, deny each and every allegation contained therein.

15 56. Defendants are without sufficient knowledge or information to form a belief as to
16 the truth of the allegations contained in Paragraph 56 of the Complaint, and therefore, on that
17 basis, deny each and every allegation contained therein.

18 57. Defendants are without sufficient knowledge or information to form a belief as to
19 the truth of the allegations contained in Paragraph 57 of the Complaint, and therefore, on that
20 basis, deny each and every allegation contained therein.

21 58. Defendants are without sufficient knowledge or information to form a belief as to
22 the truth of the allegations contained in Paragraph 58 of the Complaint, and therefore, on that
23 basis, deny each and every allegation contained therein.

24 59. Defendants are without sufficient knowledge or information to form a belief as to
25 the truth of the allegations contained in Paragraph 59 of the Complaint, and therefore, on that
26 basis, deny each and every allegation contained therein.

27 60. Defendants are without sufficient knowledge or information to form a belief as to
28 the truth of the allegations contained in Paragraph 60 of the Complaint, and therefore, on that

1 basis, deny each and every allegation contained therein.

2 61. Defendants are without sufficient knowledge or information to form a belief as to
3 the truth of the allegations contained in Paragraph 61 of the Complaint, and therefore, on that
4 basis, deny each and every allegation contained therein.

5 **CAUSES OF ACTION CLAIMED BY PLAINTIFF**

6 **COUNT I**

7 **VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT**

8 **15 .S.C. § 1692 ET SEQ.**

9 • Defendant realleges as if set forth in full hereat each of the responses set forth in
10 each of the preceding paragraphs of this Answer.

11 • Defendants deny the allegations contained in this Paragraph of the Complaint,
12 which is not numbered.

13 • Defendants deny the allegations contained in this Paragraph of the Complaint,
14 which is not numbered.

15 **COUNT II**

16 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

17 **CAL. CIV. CODE §§ 1788-1788.32**

18 • Defendant realleges as if set forth in full hereat each of the responses set forth in
19 each of the preceding paragraphs of this Answer.

20 • Defendants deny the allegations contained in this Paragraph of the Complaint,
21 which is not numbered.

22 • Defendants deny the allegations contained in this Paragraph of the Complaint,
23 which is not numbered.

24 **COUNT III**

25 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

26 • Defendant realleges as if set forth in full hereat each of the responses set forth in
27 each of the preceding paragraphs of this Answer.

28 • Defendants deny the allegations contained in this Paragraph of the Complaint,

1 which is not numbered.

2 • Defendants deny the allegations contained in this Paragraph of the Complaint,
3 which is not numbered.

4 • Defendants deny the allegations contained in this Paragraph of the Complaint,
5 which is not numbered.

6 • Defendants deny the allegations contained in this Paragraph of the Complaint,
7 which is not numbered.

8 • Defendants deny the allegations contained in this Paragraph of the Complaint,
9 which is not numbered.

10 **AFFIRMATIVE DEFENSES**

11 As separate affirmative defenses to Plaintiffs' Complaint, and all causes of action
12 therein, these answering Defendants allege as follows:

13 1. The Complaint and each cause of action therein fail to state facts sufficient to
14 constitute a cause of action against these answering defendants.

15 2. The Complaint and each cause of action therein are barred by the applicable
16 statutes of limitation, including specifically, but not limited to those found in: California Civil
17 Code §1788.30; 15 U.S.C. §1692k(d); and Code of Civil Procedure § 335.1.

18 3. Pursuant to Civil Code §1788.30(d), Defendants have no liability for any alleged
19 violation(s) of the Rosenthal Fair Debt Collection Practices Act ("Rosenthal Act"), Civil Code §
20 1788 et seq., because they did not receive proper written notice sufficient to put them on notice
21 of any purported violation(s), and therefore were not in a position to correct any deficiencies
22 prior to the maintenance of this Complaint.

23 4. Pursuant to Civil Code §1788.30(d), Defendants have no liability for any alleged
24 violation(s) of the Rosenthal Act because, to the extent they were aware of any purported
25 violation(s), they took steps to cure the purported violation(s) with respect to the Plaintiffs.

26 5. Pursuant to Civil Code §1788.30(e), Defendants have no liability for any alleged
27 violation(s) of the Rosenthal Act because they can show by a preponderance of evidence that the
28 violation(s) was/were not intentional and resulted notwithstanding the maintenance of

1 procedures reasonably adapted to avoid any such violation(s).

2 6. Pursuant to 15 U.S.C. §1692k(c), Defendants have no liability for any alleged
3 violation(s) of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., because
4 they can show by a preponderance of evidence that the violation(s) was/were not intentional and
5 resulted from a bona fide error notwithstanding the maintenance of procedures reasonably
6 adapted to avoid any such error(s).

7 7. Should Plaintiffs recover damages from Defendants, Defendants are entitled to
8 contribution and comparative, equitable and implied indemnification, either in whole or in part,
9 from all persons or entities whose negligence and/or fault proximately contributed to Plaintiffs'
10 damages, if any.

11 8. Should Plaintiffs recover damages from Defendants, said Defendants are entitled
12 to indemnification in contract and/or equity, either in whole or in part, from all persons whose
13 negligence and/or fault proximately contributed to those damages, if any.

14 9. Should Plaintiffs recover damages from Defendants, Defendants are entitled to
15 declaratory relief from the Court regarding the parties' respective rights and duties with regard
16 to any such damages, and respectfully requests the same.

17 10. Plaintiffs unreasonably delayed in bringing the Complaint to the prejudice of
18 these answering Defendants and are therefore barred from bringing this Complaint by the
19 doctrine of laches.

20 11. Plaintiffs are at fault with regard to the matters referred to in the Complaint, and
21 such fault on the part of Plaintiffs caused and contributed to the damages complained of, if any.
22 These answering Defendants further allege that any fault not attributable to said Plaintiffs was a
23 result of fault on the part of persons and/or entities other than these answering Defendants. Such
24 fault and/or proportionality reduce any recovery by Plaintiffs against these answering
25 Defendants.

26 12. Plaintiffs approved and/or ratified Defendants' conduct, and Plaintiffs are
27 therefore estopped from asserting any claims based thereon.

28 13. Plaintiffs have failed and neglected to use reasonable care to minimize and

1 mitigate the losses, injuries, and damages complained of, if any.

2 14. This Complaint and each cause of action therein are barred by virtue of
3 Plaintiffs' conduct in causing the damages alleged by Plaintiffs under the doctrine of unclean
4 hands.

5 15. The Complaint and each cause of action therein are barred by the doctrines of
6 waiver and/or estoppel.

7 16. Plaintiffs' claims are barred by misrepresentation.

8 17. The Complaint and each cause of action therein are barred by the doctrines of
9 duress and economic compulsion.

10 18. Plaintiffs' damages, if any, were a result of their own negligent conduct.

11 19. Plaintiffs did not justifiably rely on any alleged representation by Defendants as
12 alleged in the Complaint.

13 WHEREFORE, Defendants pray for the following relief:

- 14 1. That the Complaint be dismissed;
15 2. That Plaintiffs recover nothing by reason of the Complaint;
16 3. For costs and reasonable attorneys' fees as allowed by law;
17 4. For contribution and indemnification from all persons or entities whose
18 negligence and/or fault proximately contributed to Plaintiffs' damages, if any; and
19 5. For such other relief as the Court deems just and proper.
20

21 DATED: March 27, 2008

Hewell Law Firm, APC

22
23 By: /s/ Harold M. Hewell

24 Harold M. Hewell
25 Attorney for Defendants
26 Asset Management Company and Peter Fine
27
28